

**AMENDMENT TO H.R. 1588, AS REPORTED
OFFERED BY MR. KLINE OF MINNESOTA**

At the end of division A (page 433, after line 20),
insert the following new title:

1 **TITLE XV—HIGHER EDUCATION**
2 **RELIEF OPPORTUNITIES FOR**
3 **STUDENTS**

4 **SEC. 1501. SHORT TITLE; REFERENCE.**

5 (a) SHORT TITLE.—This title may be cited as the
6 “Higher Education Relief Opportunities for Students Act
7 of 2003”.

8 (b) REFERENCE.—References in this title to “the
9 Act” are references to the Higher Education Act of 1965
10 (20 U.S.C. 1001 et seq.).

11 **SEC. 1502. WAIVER AUTHORITY FOR RESPONSE TO MILI-**
12 **TARY CONTINGENCIES AND NATIONAL EMER-**
13 **GENCIES.**

14 (a) WAIVERS AND MODIFICATIONS.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of law, unless enacted with specific ref-
17 erence to this section, the Secretary of Education
18 (referred to in this title as the “Secretary”) may
19 waive or modify any statutory or regulatory provi-
20 sion applicable to the student financial assistance



1 programs under title IV of the Act as the Secretary
2 deems necessary in connection with a war or other
3 military operation or national emergency to provide
4 the waivers or modifications authorized by para-
5 graph (2).

6 (2) ACTIONS AUTHORIZED.—The Secretary is
7 authorized to waive or modify any provision de-
8 scribed in paragraph (1) as may be necessary to en-
9 sure that—

10 (A) recipients of student financial assist-
11 ance under title IV of the Act who are affected
12 individuals are not placed in a worse position fi-
13 nancially in relation to that financial assistance
14 because of their status as affected individuals;

15 (B) administrative requirements placed on
16 affected individuals who are recipients of stu-
17 dent financial assistance are minimized, to the
18 extent possible without impairing the integrity
19 of the student financial assistance programs, to
20 ease the burden on such students and avoid in-
21 advertent, technical violations or defaults;

22 (C) the calculation of “annual adjusted
23 family income” and “available income”, as used
24 in the determination of need for student finan-
25 cial assistance under title IV of the Act for any



1 such affected individual (and the determination
2 of such need for his or her spouse and depend-
3 ents, if applicable), may be modified to mean
4 the sums received in the first calendar year of
5 the award year for which such determination is
6 made, in order to reflect more accurately the fi-
7 nancial condition of such affected individual
8 and his or her family;

9 (D) the calculation under section
10 484B(b)(2) of the Act (20 U.S.C. 1091b(b)(2))
11 of the amount a student is required to return
12 in the case of an affected individual may be
13 modified so that no overpayment will be re-
14 quired to be returned or repaid if the institution
15 has documented (i) the student's status as an
16 affected individual in the student's file, and (ii)
17 the amount of any overpayment discharged; and

18 (E) institutions of higher education, eligi-
19 ble lenders, guaranty agencies, and other enti-
20 ties participating in the student assistance pro-
21 grams under title IV of the Act that are located
22 in areas that are declared disaster areas by any
23 Federal, State or local official in connection
24 with a national emergency, or whose operations
25 are significantly affected by such a disaster,



1 may be granted temporary relief from require-
2 ments that are rendered infeasible or unreason-
3 able by a national emergency, including due
4 diligence requirements and reporting deadlines.

5 (b) NOTICE OF WAIVERS OR MODIFICATIONS.—

6 (1) IN GENERAL.—Notwithstanding section 437
7 of the General Education Provisions Act (20 U.S.C.
8 1232) and section 553 of title 5, United States
9 Code, the Secretary shall, by notice in the Federal
10 Register, publish the waivers or modifications of
11 statutory and regulatory provisions the Secretary
12 deems necessary to achieve the purposes of this sec-
13 tion.

14 (2) TERMS AND CONDITIONS.—The notice
15 under paragraph (1) shall include the terms and
16 conditions to be applied in lieu of such statutory and
17 regulatory provisions.

18 (3) CASE-BY-CASE BASIS.—The Secretary is not
19 required to exercise the waiver or modification au-
20 thority under this section on a case-by-case basis.

21 (c) IMPACT REPORT.—The Secretary shall, not later
22 than 15 months after first exercising any authority to
23 issue a waiver or modification under subsection (a), report
24 to the Committee on Education and the Workforce of the
25 House of Representatives and the Committee on Health,



1 Education, Labor and Pensions of the Senate on the im-
2 pact of any waivers or modifications issued pursuant to
3 subsection (a) on affected individuals and the programs
4 under title IV of the Act, and the basis for such deter-
5 mination, and include in such report the Secretary's rec-
6 ommendations for changes to the statutory or regulatory
7 provisions that were the subject of such waiver or modi-
8 fication.

9 (d) NO DELAY IN WAIVERS AND MODIFICATIONS.—
10 Sections 482(c) and 492 of the Higher Education Act of
11 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the
12 waivers and modifications authorized or required by this
13 title.

14 **SEC. 1503. TUITION REFUNDS OR CREDITS FOR MEMBERS**
15 **OF ARMED FORCES.**

16 (a) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that—

18 (1) all institutions offering postsecondary edu-
19 cation should provide a full refund to students who
20 are affected individuals for that portion of a period
21 of instruction such student was unable to complete,
22 or for which such individual did not receive academic
23 credit, because he or she was called up for active
24 duty or active service; and



1 (2) if affected individuals withdraw from a
2 course of study as a result of such active duty or ac-
3 tive service, such institutions should make every ef-
4 fort to minimize deferral of enrollment or reapplica-
5 tion requirements and should provide the greatest
6 flexibility possible with administrative deadlines re-
7 lated to those applications.

8 (b) DEFINITION OF FULL REFUND.—For purposes
9 of this section, a full refund includes a refund of required
10 tuition and fees, or a credit in a comparable amount
11 against future tuition and fees.

12 **SEC. 1504. USE OF PROFESSIONAL JUDGMENT.**

13 A financial aid administrator shall be considered to
14 be making a necessary adjustment in accordance with sec-
15 tion 479A(a) of the Act if the administrator makes adjust-
16 ments with respect to the calculation of the expected stu-
17 dent or parent contribution (or both) of an affected indi-
18 vidual, and adequately documents the need for the adjust-
19 ment.

20 **SEC. 1505. DEFINITIONS.**

21 In this title:

22 (1) ACTIVE DUTY.—The term “active duty” has
23 the meaning given such term in section 101(d)(1) of
24 title 10, United States Code, except that such term



1 does not include active duty for training or attend-
2 ance at a service school.

3 (2) AFFECTED INDIVIDUAL.—The term “af-
4 fected individual” means an individual who—

5 (A) is serving on active duty during a war
6 or other military operation or national emer-
7 gency;

8 (B) is performing qualifying National
9 Guard duty during a war or other military op-
10 eration or national emergency;

11 (C) resides or is employed in an area that
12 is declared a disaster area by any Federal,
13 State, or local official in connection with a na-
14 tional emergency; or

15 (D) suffered direct economic hardship as a
16 direct result of a war or other military oper-
17 ation or national emergency, as determined by
18 the Secretary.

19 (3) MILITARY OPERATION.—The term “military
20 operation” means a contingency operation as such
21 term is defined in section 101(a)(13) of title 10,
22 United States Code.

23 (4) NATIONAL EMERGENCY.—The term “na-
24 tional emergency” means a national emergency de-
25 clared by the President of the United States.



1 (5) SERVING ON ACTIVE DUTY.—The term
2 “serving on active duty during a war or other mili-
3 tary operation or national emergency” shall include
4 service by an individual who is—

5 (A) a Reserve of an Armed Force ordered
6 to active duty under section 12301(a),
7 12301(g), 12302, 12304, or 12306 of title 10,
8 United States Code, or any retired member of
9 an Armed Force ordered to active duty under
10 section 688 of such title, for service in connec-
11 tion with a war or other military operation or
12 national emergency, regardless of the location
13 at which such active duty service is performed;
14 and

15 (B) any other member of an Armed Force
16 on active duty in connection with such war, op-
17 eration, or emergency or subsequent actions or
18 conditions who has been assigned to a duty sta-
19 tion at a location other than the location at
20 which such member is normally assigned.

21 (6) QUALIFYING NATIONAL GUARD DUTY.—The
22 term “qualifying National Guard duty during a war
23 or other military operation or national emergency”
24 means service as a member of the National Guard
25 on full-time National Guard duty (as defined in sec-



1 tion 101(d)(5) of title 10, United States Code)
2 under a call to active service authorized by the
3 President or the Secretary of Defense for a period
4 of more than 30 consecutive days under section
5 502(f) of title 32, United States Code, in connection
6 with a war, another military operation, or a national
7 emergency declared by the President and supported
8 by Federal funds.

9 **SEC. 1506. TERMINATION OF AUTHORITY.**

10 The provisions of this title shall cease to be effective
11 at the close of September 30, 2005.

